

Notice of Allowability

Application No.

09/978,375

Examiner

Jon Eric Angell

Applicant(s)

ASHKENAZI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper filed 7/24/2006.
2. ☒ The allowed claim(s) is/are 61-66 and 68-70.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 7/24/2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JON ANGELL
PATENT EXAMINER

J.E. Angell

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Barrie Greene on October 4, 2006.

The application has been amended as follows:

Claims 58-60 and 67 have been cancelled.

61. An isolated polypeptide comprising an amino acid sequence having at least 95% sequence identity to:

- (a) the amino acid sequence of the polypeptide of SEQ ID NO: 59;
- (b) the amino acid sequence of the polypeptide of SEQ ID NO: 59, lacking its associated signal peptide;
- (c) the amino acid sequence of the extracellular domain of the polypeptide of SEQ ID NO: 59; or
- ~~(d) the amino acid sequence of the extracellular domain of the polypeptide of SEQ ID NO: 59, lacking its associated signal peptide, or~~
- [[~~(e)~~]] (d) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the CDNA deposited under ATCC accession number 209616,

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wherein said polypeptide induces chondrocyte re-differentiation.

62. An isolated polypeptide of Claim 58 comprising an amino acid sequence having at least 99% sequence identity to:

- (a) the amino acid sequence of the polypeptide of SEQ ID NO: 59;
- (b) the amino acid sequence of the polypeptide of SEQ ID NO: 59, lacking its associated signal peptide;
- (c) the amino acid sequence of the extracellular domain of the polypeptide of SEQ ID NO: 59; or
- ~~(d) the amino acid sequence of the extracellular domain of the polypeptide of SEQ ID NO: 59, lacking its associated signal peptide; or~~
- [[(e)]] (d) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209616,

wherein said polypeptide induces chondrocyte re-differentiation.

63. An isolated polypeptide comprising:

- (a) the amino acid sequence of the polypeptide of SEQ ID NO: 59;
- (b) the amino acid sequence of the polypeptide of SEQ ID NO: 59, lacking its associated signal peptide;
- (c) the amino acid sequence of the extracellular domain of the polypeptide of SEQ ID NO: 59; or

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~~(d) the amino acid sequence of the extracellular domain of the polypeptide of SEQ ID~~

~~NO: 59, lacking its associated signal peptide; or~~

[[~~(e)~~]] (d) the amino acid sequence of the polypeptide encoded by the full-length coding sequence of the cDNA deposited under ATCC accession number 209616.

69. A chimeric polypeptide comprising a polypeptide according to Claim ~~58~~ 61 fused to a heterologous polypeptide.

The above amendment obviates the rejection under 35 U.S.C. 112, first paragraph (written description), corrects dependency of the pending claims after the amendment, and further removes any confusion regarding the “extracellular domain... lacking its associated signal peptide”.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/24/2006 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon Eric Angell whose telephone number is 571-272-0756. The examiner can normally be reached on Mon-Fri, with every other Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached on 571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.E. Angell, Ph.D.
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PATENT EXAMINER